

Atty Dkt. No.: CLON-060  
USSN: 09/960,716

### **REMARKS**

#### ***Formal Matters***

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1, and 3-19, the only claims pending and currently under examination in this application.

Claim 1 has been amended to clarify that the metal ion chelating polysaccharide is present in the sample contacted to the array. Support for this amendment can be found in the specification on page 28, lines 4-7. Claim 13 has been amended for clarity as requested by the Examiner.

As no new matter has been added by way of these amendments, entry thereof by the Examiner is respectfully requested.

#### ***Claim Rejections – 35 USC § 112***

Claims 13-17 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner states that the limitation "the same buffer composition" in line 6 of Claim 13 has insufficient antecedent basis.

The Applicants have amended Claim 13 to correct the indefinite language and as such respectfully request withdrawal of this rejection.

#### ***Claim Rejections – 35 USC § 103***

Claims 1 and 3 -18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wohlstadter et al. (US patent 6,207,369; the '369 patent) in view of Kartel et al. (Chemosphere 1999; vol. 38, no. 11, pp. 2591 – 2596).

With regard to 103(a) rejections, MPEP § 2143.01(V) states the following:

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no

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suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The Examiner asserts that the '369 patent teaches an analyte detection method comprising contacting a sample with a planar array of a plurality of distinct binding agents displayed on the surface of a solid support in the presence of a metal ion chelator. In making this assertion, the Examiner cites element M1 in col. 38, lines 40-49 of the '369 patent.

However, element M1 of the '369 patent is part of the binding pair which is being analyzed and as such is attached to the surface of the solid support (see col. 37 line 50 to col. 38 line 54 which describes Figure 28).

This is in direct contrast to the claimed methods in which the metal ion chelating polysaccharide is not attached to the solid array surface but rather is present in the sample being analyzed (i.e., it is in solution). To alter the teachings of the '369 patent such that M1 is not surface bound would render it unsatisfactory for its intended purpose.

The citation of Kartel et al. for its asserted teaching of metal ion chelating polysaccharides fails not remedy this fundamental deficiency of the '369 patent.

Therefore, because the combined teachings of the cited references fail to make the claimed methods unpatentable, the Applicants respectfully request withdrawal of this rejection.

Claim 19 has been rejected under 35 U.S.C. § 103 (a) over Wohlstadter et al. (US patent 6,207,369) in view of Kartel et al. (Chemosphere 1999; vol. 38, no. 11, pp. 2591 – 2596) and further in view of Moyer et al. (US patent 3,791,933).

Because Moyer et al. was cited merely for its teaching of filter discs for use in filtering analyte-containing samples, it fails to remedy the deficiencies in the the '369 patent and Kartel et al.

As such, the Applicants respectfully request withdrawal of this rejection.

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### CONCLUSION

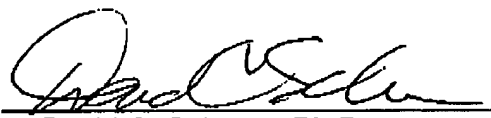
In view of the amendments and remarks above, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issuance.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number CLON-060.

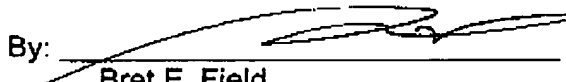
Respectfully submitted,

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